

**§ 447.76 Public schedule.**

(a) The State must make available to the groups in paragraph (b) of this section a public schedule that contains the following information:

(1) Current premiums, enrollment fees, or similar fees.

(2) Current cost sharing charges.

(3) The aggregate limit on premiums and cost sharing or just cost sharing.

(4) Mechanisms for making payments for required premiums and charges.

(5) The consequences for an applicant or recipient who does not pay a premium or charge.

(6) A list of hospitals charging alternative cost sharing for non-emergency use of the emergency department.

(7) Either a list of preferred drugs or a method to obtain such a list upon request.

(b) The State must make the public schedule available to the following:

(1) Beneficiaries, at the time of their enrollment and reenrollment after a redetermination of eligibility, and when premiums, cost sharing charges, or aggregate limits are revised.

(2) Applicants, at the time of application.

(3) All participating providers.

(4) The general public.

(c) Prior to submitting to the Centers for Medicare & Medicaid Services for approval a State plan amendment (SPA) to establish alternative premiums or cost sharing under section 1916A of the Act or an amendment to modify substantially an existing plan for alternative premiums or cost sharing, the State must provide the public with advance notice of the amendment and reasonable opportunity to comment with respect to such amendment in a form and manner provided under applicable State law, and must submit documentation with the SPA to demonstrate that this requirement was met.

[73 FR 71851, Nov. 25, 2008, as amended at 75 FR 30264, May 28, 2010]

**§ 447.78 Aggregate limits on alternative premiums and cost sharing.**

(a) The total aggregate amount of premiums and cost sharing imposed under sections 1916 and 1916A of the Act for all individuals in a family enrolled in Medicaid with family income above

100 percent of the FPL may not exceed 5 percent of the family's income for the monthly or quarterly period, as specified by the State in the State plan.

(b) The total aggregate amount of cost sharing imposed under sections 1916 and 1916A of the Act for all individuals in a family enrolled in Medicaid with family income at or below 100 percent of the FPL may not exceed 5 percent of the family's income for the monthly or quarterly period, as specified by the State in the State plan.

(c) Family income shall be determined in a manner, for such period, and at such periodicity as specified by the State in the State plan, including the use of such disregards as the State may provide and the process for individuals to request a reassessment of the family's aggregate limit if the family's income is reduced or if eligibility is being terminated due to nonpayment of a premium.

(1) States may use gross income or any other methodology.

(2) States may use a different methodology for determining the family's income to which the 5 percent aggregate limit is applied than is used for determining income eligibility.

[75 FR 30264, May 28, 2010]

**§ 447.80 Enforceability of alternative premiums and cost sharing.**

(a) With respect to alternative premiums, a State may do the following:

(1) Require a group or groups of individuals to prepay.

(2) Terminate an individual from medical assistance on the basis of failure to pay for 60 days or more.

(3) Waive payment of a premium in any case where the State determines that requiring the payment would create an undue hardship for the individual.

(b) With respect to alternative cost sharing, a State may amend its Medicaid State plan to permit a provider, including a pharmacy or hospital, to require an individual, as a condition for receiving the item or service, to pay the cost sharing charge, except as specified in paragraphs (b)(1) through (3) of this section.

(1) A provider, including a pharmacy and a hospital, may not require an individual whose family income is at or